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Message Text

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ORIGIN L-03

INFO OCT-01 EUR-25 ISO-00 TRSE-00 IO-14 SNM-02 DEAE-00

CIAE-00 INR-11 JUSE-00 NSAE-00 RSC-01 SY-04 USIA-15

NSC-07 SCI-06 OMB-01 /090 R

DRAFTED BY L/SFP:LFIELDS/CUSTOMS:IO:JBOLAUGHLIN
APPROVED BY S/NM;SBVANCE
DEA:JBARTELS (SUBS)
CUSTOMS:VACREE (SUBS)
S/NM:DMILLER
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S/NM:MLAWRENCE
---------- 100043
R 021413Z OCT 74
FM SECSTATE WASHDC
TO AMEMBASSY BONN

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E.O. 11652 N/A
TAGS: SNAR, GW
SUBJECT:US - FRG NARCOTICS CONTROL COOPERATION
REFERENCE: (A) BONN 5886
(B) HILLENBRAND-VANCE LETTER (9/9/74)

1. REGRET EMBARRASING DELAY CITED IN REF B RE WASHINGTON POSITION ON DRAFT U.S.-FRG NARCOTICS CONTROL AGREEMENT; HOWEVER, DEVELOPMENT OF POSITION HAS BEEN COMPLICATED BY INTERAGENCY JURISDICTIONAL CONCERN, POSSIBLE OVERLAP IN EXISTING U.S.-FRG AGREEMENTS ON NARCOTICS MATTERS; AND USUAL COORDINATING DELAYS. WE TRUST THAT ACTIONS WE ARE NOW TAKING WILL EXPEDITE WASHINGTON RESPONSE AND YOU SHOULD HAVE OUR COMMENTS BY OCTOBER 7.

2. AS YOU ARE AWARE, REORGANIZATION PLAN NO. 2 OF 1973, WHICH HAS THE FULL FORCE OF U.S. LAW, ESTABLISHED THE DRUG
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ENFORCEMENT AGENCY. THE PLAN ABOLISHED THE BUREAU OF NAR-

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COTICS AND DANGEROUS DRUGS (BNDD) AND CONFERRED ALL BNDD FUNCTIONS UPON DEA. THE PLAN ALSO REASSIGNED TO DEA THOSE FUNCTIONS OF U.S. CUSTOMS PERTAINING TO DRUG INVESTIGATIONS AND INTELLIGENCE. THE RESPONSIBILITIES OF DEA INCLUDE THE CONDUCT OF ALL RELATIONS WITH DRUG LAW ENFORCEMENT OFFICIALS OF FOREIGN GOVERNMENTS, UNDER THE POLICY GUIDANCE OF THE CABINET COMMITTEE ON INTERNATIONAL NARCOTICS CONTROL. THE PLAN, OF COURSE, DOES NOT PRECLUDE CUSTOMS-TO-CUSTOMS

CONTACTS WITHIN THE AREAS OF RESPONSIBILITY RETAINED BY CUSTOMS SUCH AS BORDER INTERDICTION OF ALL CONTRABAND. DEA IS UNQUESTIONABLY THE RESPONSIBLE U.S. AGENCY FOR OVERT DRUG INTELLIGENCE COLLECTION AND COORDINATION OF LAW ENFORCEMENT EFFORTS ABROAD IN NARCOTICS CONTROL.

3. OUR REVIEW OF THE STATUS OF U.S.-FRG NARCOTICS COOPERATION HAS REVEALED TWO EXISTING AGREEMENTS, ONLY ONE OF WHICH IS PRESENTLY IN FORCE. AN ARRANGEMENT BETWEEN U.S. AND FRG ON EXCHANGE OF INFORMATION FOR CONTROL OF ILLICIT TRAFFIC IN NARCOTIC DRUG (TIAS 3514) ENTERED INTO FORCE ON MARCH 7, 1956. IT PROVIDED FOR EXCHANGE OF INFORMATION AND EVIDENCE RE ILLICIT TRAFFIC IN NARCOTIC DRUGS, AND OTHER COOPERATION EFFORTS IN THIS FIELD. THE DESIGNATED CHANNELS ARE TREASURY FOR U.S.G. AND BUNDERKRIMINALAMT FOR FRG. THE GENERAL ARRANGEMENTS ARE SALUTARY AND WE WOULD LIKE TO SEE THEM CARRIED FORWARD IN THE COOPERATIVE EFFORT WE ARE NOW CONSIDERING, MODIFIED TO REFLECT DEA AS THE U.S.G AGENCY. OUR PROMISED COMMENTS WILL INCORPORATE THIS VIEW.

4. IN AUGUST 1973 A U.S.-FRG CUSTOMS COOPERATION AGREEMENT WAS SIGNED, BUT THE REQUISITE NOTIFICATIONS (ARTICLE 19) HAVE NOT AS YET BEEN EXCHANGED TO BRING IT INTO FORCE. ARTICLE 8 OF THAT AGREEMENT PROVIDES FOR A CUSTOMS-TO-CUSTOMS EXCHANGE OF INFORMATION ON "NARCOTIC SMUGGLING." THIS ARTICLE, TAKEN WITH ARTICLE 12, SHOULD NOT BE CONSTRUED BY THE FRG TO RESTRICT INTERGOVERNMENTAL COMMUNICATION ON THIS SUBJECT TO THIS CHANNEL WHICH, OF COURSE, WOULD BE INCONSISTENT WITH THE REORGANIZATION PLAN. WE HAVE NO INTEREST IN UNDERMINING LIMITED OFFICIAL USE

THE WELL ESTABLISHED U.S.-FRG CUSTOMS RELATIONSHIP AND INDEED DO NOT OBJECT TO CUSTOMS-TO-CUSTOMS INTERCHANGE OF INFORMATION ON NARCOTIC SMUGGLING (WHICH OUR CUSTOMS SERVICE WOULD PROVIDE TO DEA UNDER THE AGREEMENT AND THE REORGANIZATION PLAN). WE WOULD NOT, HOWEVER, WANT ANY PROVISION IN A BILATERAL ARRANGEMENT INTERPRETED IN A MANNER WHICH IS IN DERROGATION OF U.S. DOMESTIC LAW AND THEREFORE OUR PROPOSED NARCOTICS COOPERATION AGREEMENT

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WITH FRG SHOULD CLEARLY ESTABLISH THE OFFICIAL COMMUNICATION CHANNEL FOR NARCOTICS INFORMATION BETWEEN DEA AND WHATEVER GERMAN ENTITIES HAVE NARCOTICS CONTROL RESPONSIBILITIES.

5. WE ARE MOVING RAPIDLY TO PREPARE AND CLEAR COMMENTS ON AND SUGGESTED CHANGES TO THE GERMAN DRAFT AGREEMENT IMMEDIATELY WITH A VIEW TOWARD MEETING OCTOBER 7 COMMITMENT TO YOU. INGERSOLL

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